

Thomas Pollio
PO Box 6002
Hamden, CT 06517

**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

State of Connecticut
Department of Public Health

vs.

Thomas Pollio, LPN
Licensed Practical Nurse License No. 014804
Respondent.

CASE PETITION NO. 940921-11-042

MEMORANDUM OF DECISION

PROCEDURAL BACKGROUND

The Board of Examiners for Nursing (hereinafter the "Board") was presented by the Department of Public Health (hereinafter the "Department") with a Statement of Charges and Motion for Summary Suspension dated November 7, 1995 (Department Exhibit B). The Statement of Charges alleged, in two (2) counts, violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Thomas Pollio (hereinafter the "Respondent") which would subject the Respondent's Licensed Practical Nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that the continued nursing practice of the Respondent presented a clear and immediate danger to public health and safety. On November 15, 1995, the Board ordered, pursuant to its authority under §19a-17(c) of the General Statutes of Connecticut, that the Licensed Practical Nurse license of the Respondent be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges (Department Exhibit B).

The Board issued a Notice of Hearing dated November 15, 1995, scheduling a hearing for December 6, 1995 (Department Exhibit B). The hearing took place on December 6, 1995, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

During the hearing on December 6, 1995, the Department verbally amended the Statement of Charges by withdrawing Paragraph 3 of the First Count and Paragraph 9 of the Second Count. (Hearing Transcript, December 6, 1995, pp. 3-4)

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record and the Board's specialized professional knowledge in evaluating the evidence.

FACTS

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Thomas Pollio, hereinafter referred to as the Respondent, was issued Licensed Practical Nurse License Number 014804 on December 27, 1974. The Respondent was the holder of said license at all times referenced in the Statement of Charges. (Department Exhibits B-H)
2. Attempts at serving the Respondent with the Summary Suspension Order, Notice of Hearing, and the Statement of Charges were unsuccessful. Diligent efforts at service were made by Deputy Sheriff at the known addresses of the Respondent. (Department Exhibit A)
3. The Respondent was not present during the hearing and was not represented by counsel. (Hearing Transcript, December 6, 1995, p. 3)
4. On or about July 1986, the Respondent began employment as a licensed practical nurse at Interim HealthCare of New Haven, Inc., North Haven, Connecticut. (Department Exhibit B-F1)

5. From on or about July 1989 through October 1990, while working as a licensed practical nurse at Interim HealthCare of New Haven, Inc., the Respondent was assigned to provide home health care at the home of Doris Ayer, Hamden, Connecticut. (Department Exhibits B-D4, 7, B-F) (Hearing Transcript, December 6, 1995, pp. 14-15)
6. On or about 1993, Municipal Bonds owned by Doris Ayer were found to be missing from her home. (Department Exhibit B-D3, 7)
7. It was subsequently determined that the Municipal Bonds missing from Doris Ayer's home had been sold through the brokerage account of the Respondent at Kidder, Peabody & Co., Hartford, Connecticut. The Respondent sold the Bonds on March 22, 1990, for the amount \$9,190.32, and on July 10, 1990, for the amount \$9,495.60 (Department Exhibit B-D6, B-G13, 15) (Hearing Transcript, December 6, 1995, pp. 30-31)
8. On or about March 2, 1994, the Respondent was arrested by the Hamden Connecticut Police Department and charged with Larceny 2nd Degree for the theft and sale of Municipal Bonds owned by Doris Ayer. On November 29, 1994, the Respondent pled nolo contendere to one (1) count of Larceny 2nd Degree. (Department Exhibit B-D, B-E)
9. On or about August 5, 1995, the Respondent obtained the controlled substance Vicodin from the Caldor's Pharmacy, Hamden, Connecticut by use of a fraudulent prescription in the name Mark Petrillo. (Department Exhibit B-A)

DISCUSSION AND CONCLUSIONS

In consideration of the above Findings of Fact, the following conclusions are rendered:

Thomas Pollio held a valid Licensed Practical Nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as §19-2a-1 through §19-2a-30 of the Regulations of Connecticut State Agencies.

The FIRST COUNT of the Statement of Charges, as amended, alleges that on or about August 5, 1995, while licensed as a licensed practical nurse in the State of Connecticut, the Respondent illegally obtained the controlled substance Vicodin from Caldor's Pharmacy, Hamden, Connecticut.

The Respondent was not present at the hearing to answer this charge, therefore the Board deems this charge admitted pursuant to §19-2a-18 of the Regulations of Connecticut State Agencies.

The General Statutes of Connecticut §20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (2) illegal conduct, incompetence or negligence in performing usual nursing functions...."

Based on its findings, the Board concludes that the Respondent's conduct as alleged in the First Count of the Statements of Charges, as amended, is proven. The Board concludes that said conduct fails to conform to the accepted standards of the nursing profession and constitutes a violation of the General Statutes of Connecticut §20-99(b)(2). Therefore, the Respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

The SECOND COUNT of the Statement of Charges, as amended, alleges that between July 1989 and October 1990, while assigned to provide home health care for Doris Ayer, Hamden, Connecticut, the Respondent stole three (3) bonds belonging to Mrs. Ayer. The SECOND COUNT further alleges that on or about March 22, 1990, and July 10, 1990, the Respondent sold bonds belonging to Mrs. Ayer for \$9,190.32 and \$9,495.60 respectively.

The Respondent was not present at the hearing to answer this charge, therefore the Board deems this charge admitted pursuant to §19-2a-18 of the Regulations of Connecticut State Agencies.

The General Statutes of Connecticut §20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (2) illegal conduct, incompetence or negligence in

performing usual nursing functions ...(6) fraud or material deception in the course of professional services or activities....”

Based on its findings, the Board concludes that the Respondent's conduct as alleged in the Second Count of the Statement of Charges, as amended, is proven. The Board concludes that said conduct fails to conform to the accepted standards of the nursing profession and constitute violations of the General Statutes of Connecticut §20-99(b)(2) and (6). Therefore, the Respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

ORDER

Pursuant to its authority under §19a-17 and §20-99 of the General Statutes of Connecticut, the Board of Examiners for Nursing hereby orders the following:

1. That for the First Count and the Second Count the Statement of Charges, as amended, the Respondent's licensed practical nurse license, No. 014804, is revoked.
2. Revocation shall become effective on the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.

The Board of Examiners for Nursing hereby informs the Respondent, Thomas Pollio, and the Department of Public Health of the State of Connecticut of this decision.

The respondent, Thomas Pollio, is hereby directed to immediately surrender Licensed Practical Nurse License No. 014804 and current registration to the Board of Examiners for Nursing, Department of Public Health, 410 Capitol Avenue, MS #12NUR, PO Box 340308, Hartford, Connecticut, 06134-0308.

Dated at Hartford, Connecticut this 24th day of July, 1996.

BOARD OF EXAMINERS FOR NURSING

By

